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**USWEST**

Robert H. Jackson  
Executive Director-  
Federal Regulatory

EX PARTE OR LATE FILED

*Ex Parte*

May 1, 1997

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

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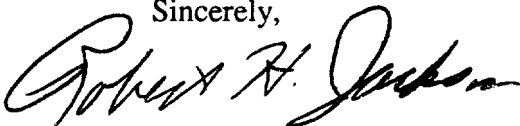
Re: *Implementation of Section 373 of the Communications Act of 1934,  
as amended by the Telecommunications Act of 1996, CC Docket No. 96-254*

Dear Mr. Caton:

On May 1, 1997, Cindy Guy, Richard Stohr and the undersigned met with Les Selzer, Greg Cook, Bill Howden and Matt Nagler of the Common Carrier Bureau concerning this proceeding. In addition, John Traylor, Dallas Martin and Mary Wybenga participated in this meeting via a video teleconference call. We discussed our positions previously filed in this docket. Also, the attached document was given to the members of the Commission staff. Please include a copy of this letter and its attachment in the record.

In accordance with 47 C.F.R. § 1.1206(a)(1) of the Commission's rules, the original of this letter and one copy are being filed with your office. Acknowledgment and date of receipt are requested. A duplicate of this letter is included for this purpose.

Sincerely,



Attachment

cc: Greg Cooke  
Les Selzer  
Bill Howden  
Matt Nagley

No. of Copies rec'd  
List ABOVE

021

CC DOCKET NO. 96-254  
Implementation of Section 273

U S WEST, Inc.  
on behalf of  
U S WEST Communications  
and  
U S WEST Media Group  
May 1, 1997

## Interrelationship Between Sections 273(a) & 273(b)

- “Manufacture” means the “design, development, and fabrication” of telecommunications equipment and CPE.
- There are two restrictions in Section 273(a):
  - 1 General prohibition on manufacturing, until a BOC is authorized to provide interLATA services in its first in-region state.
  - 2 Specific prohibition on joint manufacturing (joint design, development, and fabrication) by two or more BOCs or their affiliates, after they are both permitted to engage in manufacturing.
- **“Subsection (a) shall not prohibit a BOC” from engaging in:**
  - Close collaboration**
  - Research**
  - Royalty agreements**

## **Interrelationship Between Sections 273(a) & 273(b) (Cont'd)**

- Three exceptions in Section 273(b) to the restrictions in Section 273(a):
  - 1 Close collaboration between a BOC and “any manufacturer” during design and development.
  - 2 Engaging in research related to manufacturing (i.e., related to design, development, or fabrication), either alone or together with other BOC-affiliated or non-BOC-affiliated manufacturers.
  - 3 Licensing a property right to any BOC-affiliated or non-BOC affiliated manufacturer of telecommunications equipment in exchange for a royalty.
- Section 273(a) now prohibits a BOC from engaging in some, but not all, aspects of manufacturing, before it is permitted to manufacture.
- Section 273(a) prohibits a BOC from engaging in all aspects of manufacturing with another BOC after both BOCs are permitted to manufacture.

## Close Collaboration - Section 273(b)(1)

- Section 273(b)(1) permits close collaboration “with any manufacturer”.
  - Of telecommunications equipment or CPE
  - During the design and development phases
- “Any manufacturer” means an unaffiliated third-party manufacturer or a BOC-affiliated manufacturing affiliate.
  - BOCs may collaborate with the entire universe of manufacturers.

## Royalty Agreements

- Intellectual property rights provide an incentive to encourage innovation and invention and competition in the global market for telecommunications.
- Intellectual property enhances a company's asset portfolio, and facilitates strategic alliances to improve state of the art technology.
- Outbound intellectual property licensing by BOCs allows for broader utilization of the best technical solutions, supports the vendor community, and allows for a return on the BOCs investment in research and development.
- The royalty portion of licensing agreements is very situation specific, requiring broad latitude to arrive at a mutually-acceptable position.

## Network Disclosure/Notice of Network Change Rules

- U S WEST finds the current Network Disclosure/Notice of Network Change rules outlined in the Third Computer Inquiry and 251(c)(5) Rules 51.325 - 51.333 sufficient for manufacturing under 273(c).
  - The Third Computer Inquiry requires disclosure of all information relating to network design and technical standards and information affecting changes to the telecommunications network which would affect Enhanced Service Providers (ESPs) ability to interconnect or a manner in which customer premises equipment (CPE) is attached to the network.
  - 251(c)(5) (Rule 51.325) obligates BOCs to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as any other changes that would affect a competing service providers performance, ability to provide service or the interoperability of facilities and networks.

<u>Rules</u>	<u>Content</u>
51.325	Public Notice Requirements
51.327	Content of Notice
51.329	Methods for Providing Notice
51.331	Timing of Notice
51.333	Short Term Notice

- These rules emphasize consistency as to the **trigger, content, distribution, and timing of notification methods.**
- 273(c) requires that BOCs make available, maintain and file with the Commission information on protocols and technical requirements, adhere to disclosure of information requirements, provide access to competitors, and planned deployment of telecommunications equipment.
- The Commission should expand the existing rules to accommodate 273(c) manufacturers.

## 273(c) Information Requirements

- Information On Protocols And Technical Requirements - Each Bell operating company shall, in accordance with regulations prescribed by the Commission, maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Each such company shall report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule of implementation of such changes or planned changes.
- Disclosure of Information - A Bell operating company shall not disclose any information required to be filed under paragraph (1) unless that information has been filed promptly as required by regulation by the Commission.
- Access By Competitors To Information - The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers have access to the information with respect to the protocols and technical requirements for connection with and use of telephone exchange service facilities that a Bell operating company makes available to any manufacturing affiliate or any unaffiliated manufacturer.
- Planning Information - Each Bell operating company shall provide, to interconnecting carriers providing telephone exchange service, timely information on the planned deployment of telecommunications equipment.



## Trigger: Make-Buy Decision Rule 51.331

- The Make-Buy decision triggers the release of a Disclosure.
- The Make-Buy decision occurs at the point when a firm business decision has been made to move forward.
  - Follows prototype and testing
  - Follows design and development
- The Make-Buy decision protects manufacturers from premature disclosure.

### Premature disclosure could result in:

- Misleading information that is subject to change
- Unnecessary expenditures
- Disadvantage manufacturers
- Competitively harmful

## Content of Notice of Network Changes

### Rule 51.327

1. Carrier's name and address
2. Additional contact - supply additional information on planned changes (if additional information is found to be necessary - distributed ubiquitous)
3. Implementation date(s)
4. Location(s)
5. Description of the type of changes planned and technical references/standards
6. Description of the reasonably foreseeable impact

- Existing technical specification requirements insure interoperability within the telephone network.
  - Rule 51.327(5) requires that "information provided to satisfy this requirement must include, as applicable, but is not limited to, references to technical specifications, protocols, and standards regarding transmission, signaling, routing, and facility assignment as well as references to technical standards that would be applicable to any new technologies or equipment, or that may otherwise affect interconnection."
  - Third Computer Inquiry (Docket 85-229) requires that the technical information, such as network design, technical standards, interfaces, and manner of interconnection will be sufficiently detailed to permit ESPs to design equipment, software, and services which will be interoperational with the basic network(s).
  - Third Computer Inquiry (Docket 86-79) requires that the relevant technical information will be sufficiently detailed to permit CPE vendors to design services and equipment which will be completely interoperational with the network, so that all users may gain access to and use of common carrier facilities, services and capabilities in the same manner, on a non-discriminatory basis.
- Manufacturers have access to complete, accurate and current information on equal terms and conditions.
- Quantity of information varies by disclosure.

## Methods for Providing Notice

### Rule 51.329

- Requires filing a public notice with the Commission or providing public notice through industry fora, industry publications, or the carrier's publicly accessible Internet site, including Certification filing.
- U S WEST's Internet site (<http://www.uswest.com/disclosures>) provides:
  - Disclosure announcements
  - Equal and ubiquitous access to information
  - Compliance verification

## Timing of Notification Rules 51.331 and 51.333

- Consistent and clear time frames have been established.
- Requires a BOC to give public notice of planned changes at the Make-Buy point at least 12 months before implementation, except as provided below:
  - If changes can be implemented within 12 months of the Make-Buy, public notice must be given at the Make-Buy point, but at least 6 months before implementation.
  - If the changes can be implemented within 6 months of the Make-Buy point, public notice may be given pursuant to the Short Term Notice Procedures provided in 51.333.
- Methods exist to address objections in a consistent and timely manner, eliminating a single perspective and unnecessary delays.

NOTE: U S WEST recommends amending Rule 51.333(a)(1) to eliminate manual U.S. mailing to all interconnectors/manufacturers.

## Short Term Notice - Methods for Objections

### Rule 51.333(c, d, e)

- By the ninth business day following release of public notice.
- State specific reasons why the objector cannot accommodate the changes.
- State specific technical information or other assistance required.
- List steps the objector is taking to accommodate the BOC's changes on an expedited basis.
- State the earliest possible date (not to exceed six months from the date the LEC gave its original public notice).
- Provide any other information relevant to the objection.
- Provide an affidavit "that the statements contained in it are true, and that there is good ground to support the objection, and that it is not interposed for purposes of delay".
- BOC has until the 14th business day following the release to respond and serve the response on all parties that filed objections.
  - LEC must provide information responsive to allegations.
  - State whether the implementation date(s) proposed are acceptable.
  - Indicate any specific technical assistance that the BOC is willing to give
  - Provide other relevant information.
- The Chief, Network Services Division, Common Carrier Bureau will issue an order determining the public notice period.

- Network Disclosure requirements have been in effect since 1988 and are necessary in the establishment of a level playing field to all - CPE vendors, ESPs, Interconnectors, and manufacturers of telecommunications equipment.
- These requirements emphasize consistency as to the trigger, content, distribution and timing of notification methods.
  - Encourage robust competition and innovation
  - Stimulate the market
  - Facilitate interconnectivity and interoperability
  - Availability of essential information
- The Commission should expand the existing rules to accommodate 273(c).

## Equipment Procurement And Sales

- Procurement standards in 273(e) apply to the procurement of telecommunications equipment (i.e., software integral to the equipment and hardware).
- Procurement standards in 273(e) apply when a BOC is permitted to engage in manufacturing.
- BOCs currently have procurement policies which mirror the procurement standards in 273(e).

## Equipment Procurement and Sales

### U S WEST Code of Business Ethics and Conduct

“It is the policy of U S WEST to purchase products and services based on merit and the Company’s overall business needs, regardless of source. Overall Business needs include the appropriate balance of cost, timeliness, quality, technical suitability, economic diversity, legal requirements, and other valid business considerations. U S WEST will conduct all procurements in a **non-discriminatory** manner, including **non-discriminatory** access to procurement information.”



## Equipment Procurement and Sales

- U S WEST's procurement policy endorses the procurement standards in 273(e)
- U S WEST's procurement policy has been in effect for 15 years.

## Joint Network Planning

- Section 273(e)(3) requires that BOCs engage in joint network planning and design with LECs operating in the same area of interest.
- U S WEST currently engages in joint network planning and design in the following areas:
  - Forecasting
  - Trunking arrangements
  - Trunk utilization
  - Traffic volumes
  - Shifts in traffic patterns
  - Requests for interconnection
- Delays in introduction or deployment of network services do not occur because Network Disclosure requirements are triggered at the Make-Buy point.
- Disclosure consistent with the existing rules assures timely access to information.